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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,943	11/22/2000	Thomas Gassenmeier	H 4325	1228

7590 11/10/2004

James M Olsen
Connolly Bove Lodge & Hutz
PO Box 2207
1220 Market Street
Wilmington, DE 19899

EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,943

Applicant(s)

GASSENMEIER ET AL. +A

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-12, 14, 15, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-12, 14, 15, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the amendment filed on August 30, 2004.
2. Claims 10-12, 14-15, 18 and 19 are pending.
3. Claims 10-12 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Beaujean et al. (US Patent No. 5,505,875), hereinafter "Beaujean" for the reasons set forth in the previous office action.
4. Claims 10-12, 14 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brichard (US Patent No. 4,421,669) for the reasons set forth in the previous office action.
5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koyakumar et al. (US Patent No. 5,489,399) for the reasons set forth in the previous office action.

Response to Arguments

6. Applicants' arguments filed August 30, 2004 have been fully considered but they are not persuasive.

With respect to each of the obviousness rejection based upon Beaujean, Brichard and Koyakumar, Applicants argue that the claimed formula ($m_c/(m_c + m_p) = c.1/r$) governing the amount of stearic acid applied to a percarbonate (or carbonate) particle provides unexpected results and is more than just "routine experimentation" as shown in Figure 1 which shows that

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when water contacts a percarbonate material compounded with 1.5 g stearic acid/100 g, in accordance with claimed formula, the pH value remains relatively constant for almost four hours in contrast to the pH value of percarbonate not compounded with stearic acid which increases almost instantaneously when exposed to water. Applicants also argue that each of Beaujean, Brichard and Koyakumaru are all concerned with providing storage-stable percarbonate (or carbonate) products but are not concerned with providing a percarbonate (or carbonate) product with a stepped pH profile which occurs with the claimed invention.

The Examiner respectfully disagrees with the above arguments because the showing in Figure 1 is not compared to the closest prior art as in each of Beaujean, Brichard and Koyakumaru. The percarbonate compounded with stearic acid of the claimed invention is compared to a percarbonate without stearic acid, whereas each of the prior art teaches percarbonate (or carbonate) coated with fatty acids which include stearic acid. In addition, the showing is limited to percarbonate compounded with stearic acid, and not alkali metal carbonate coated with stearic acid as in present claims 18-19. Even though Beaujean, Brichard and Koyakumaru are concerned with providing storage-stable percarbonate (or carbonate) products but are not explicitly concerned with providing a percarbonate (or carbonate) product with a stepped pH profile which occurs with the claimed invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the percarbonate or carbonate product of each of Beaujean, Brichard and Koyakumaru to behave similarly because same process steps and similar ingredients have been utilized.

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon

Lorna M. Douyon
Primary Examiner
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